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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/826,607
Filing Date: 4/5/2001
Appellant(s): PUJARE, SANJAY

MAILED

FEB 23 2007

Technology Center 2100

William F. Ahmann
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/20/06 appealing from the Office action
mailed 6/19/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6574618	Eylon et al	6-2003
6343287	Kumar et al.	1-2002
6374402	Schmeidler et al.	4-2002
6457076	Cheng et al.	9-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims **1 - 52** are presented for examination and Independent claims are **1, 14, 27, 40**. These rejections are set forth in prior Office Action, Paper No. 09826607/20060602 and reproduced for convenient.

Claim Rejections - 35 USC § 103

2. **Claims 1 - 6, 8 - 19, 21 - 32, 34 - 45, 47 - 52** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Eylon et al.** (US Patent No. 6,574,618) in view of **Kumar et al.** (US Patent No. 6,343,287) and further in view of **Schmeidler et al.** (US Patent No. 6,374,402).

Regarding Claims 1, 14, 27, 40, Eylon discloses a process, apparatus, method for converting a conventionally coded computer application program into a data set suitable for streamed delivery across a network from a server and concurrent execution on a client in a computer environment, comprising the steps of:

- a) providing installation monitoring means for monitoring an installation process of the conventionally coded application program on a local computer system; (see Eylon col. 3, lines 45-50: server; col. 3, lines 52-56; col. 4, lines 51-56: streamed application ; col. 8, lines 49-53: monitor and management, streamed application installation on local system)

Eylon discloses wherein the installation monitoring means gathers modification information (see Eylon col. 8, lines 49-53: application manager monitors installation process; col. 7, lines 52-55: database for storage of gathered information), and providing data set creation means for processing the modification information for converting the application program into a data set suitable for streaming bits of the data set over the network to the client (see Eylon col. 3, lines 52-56; col. 4, lines 51-56: streamed application) such that the application program is capable of beginning execution on the client prior to downloading all of the application program (see Eylon col. 3, lines 52-56: initiate execution after fraction of application loaded(i.e. before entire application downloaded))

Eylon does not specifically disclose the capability of redirecting registry information thereby creating a registry spoofer capability or the capability for the parameterization of configuration data. However, Schmeidler discloses:

- b) wherein including system registry modifications that the installation process makes to certain file paths in a system registry of the local computer system; (see Schmeidler col. 4, lines 43-46; col. 4, lines 54-59; col. 11, lines 44-46: manipulation of registry information during installation process)
- d) deceiving the client into allowing streaming bits of the data set (see Schmeidler col. 4, lines 43-46; col. 4, lines 54-59: redirection of registry installation information (i.e. client, registry spoofer))

And, Kumar and Schmeidler disclose:

- c) parameterizing the registry modifications by replacing certain of the file paths in the system registry modifications with parameters that are recognizable by the client (see Kumar col. 1, lines 57-61; col. 1, lines 17-20: application configuration information; col. 16, lines 22-28; col. 16, lines 31-34; col. 21, lines 36-38: parameterized configuration data) to re-direct requests for reading the system registry to a registry spoofer; (see Schmeidler col. 4, lines 43-46; col. 4, lines 54-59: redirection of registry installation information (i.e. client, registry spoofer)) and

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Eylon to utilize parameterized configuration data for system installations and updates as taught by Kumar, and to enable redirection of registry entry information retrieval for redirection processing as taught by Schmeidler.

One of ordinary skill in the art would be motivated to employ Kumar in order to optimize the dynamic configuration process at runtime for a network system (see Kumar col. 1, lines 49-52: “... As computing power continues to become less expensive, clients tend

to process and store their own data, using the server primarily as a file server for sharing data with other client computers ... “; col. 5, lines 4-7: “ ... What is needed is a service architecture that provides directory integration together with an ability to add links to new external data store mechanisms specified at runtime. ... “), and to employ Schmeidler in order to enable the capability for security and preventing unauthorized use of executable software within a network environment (see Schmeidler col. 2, lines 15-22: “ ... method and system for on-demand delivery of executable software content ... method and system to deliver content to subscriber's in an on-demand basis which provides security to protect the value of the content and which prevents unauthorized use and copying thereof ... “).

Regarding Claims 2, 15, 28, 41, Eylon discloses the process, apparatus, method of claims 1, 14, 27, 40, wherein the data set creation means creates a runtime data set, the runtime data set consists of all regular application files and directories containing information about the regular application files. (see Eylon col. 3, lines 52-56; col. 4, lines 51-56: streamed application; col. 4, lines 42-50; col. 5, lines 53-64; col. 9, lines 46-49: initialization information setup)

Regarding Claims 3, 16, 29, 42, Eylon discloses the process, apparatus, method of claims 2, 15, 28, 41, wherein the data set creation means creates an initialization data set that is the first set of data streamed from the server to the client, the initialization data set prepares the client for streaming of the runtime data set. (see Eylon col. 3, lines

52-56; col. 4, lines 51-56: streamed application; col. 4, lines 42-50; col. 5, lines 53-64; col. 9, lines 46-49: initialization information setup)

Regarding Claims 4, 17, 30, 43, Eylon discloses the process, apparatus, method of claims 2, 15, 28, 41, wherein the directories contain lists of file names, file numbers, and the metadata associated with the files in a particular directory. (see Eylon col. 9, lines 46-49: file information (i.e. file numbers, list of files), directories, environment setting data (i.e. metadata) concerning installation)

Regarding Claims 5, 18, 31, 44, Eylon discloses the process, apparatus, method of claims 1, 14, 27, 40, wherein the data set creation means creates a versioning table that contains a list of root file numbers and version numbers for tracking application patches and upgrades, and wherein each entry in the versioning table corresponds to one patch level of an application with a corresponding new root directory. (see Eylon col. 4, lines 57-62; col. 14, lines 14-16; col. 2, lines 26-33: versioning information (i.e. versioning table, specific patch level) manipulated during installation)

Regarding Claims 6, 19, 32, 45, Eylon discloses the process, apparatus, method of claims 5, 18, 31, 44, wherein the versioning table is sent to the client by the server, the client compares the versioning table with the client's root file number for the particular application program to find the necessary files required for a software upgrade or patch. (see Eylon col. 14, lines 14-16: version control techniques; col. 9, lines 29-34; col. 9,

lines 38-46: initialization (i.e. version control) information sent from server to client, application manager initiated to check application specific information)

Regarding Claims 8, 21, 34, 47, Eylon discloses the process, apparatus, method of claims 1, 14, 27, 40, wherein the installation monitoring means monitors the application program as it runs (see Eylon col. 8, lines 49-53: application manager monitors installation process) and is being configured for a particular working environment on the local computer system and records common configurations of the application program thereby allowing the common configurations to be automatically duplicated on other client machines. (see Eylon col. 7, lines 52-55: database to record application configuration data and installation file information stored such that setup can be duplicated on multiple machines)

Regarding Claims 9, 22, 35, 48, Eylon discloses the process, apparatus, method of claims 1, 14, 27, 40, further comprising the step of: program profiling means for capturing the sequence of file blocks being accessed during normal execution of the application program. (see Eylon col. 4, lines 37-42: application program profile information for later optimization of processing)

Regarding Claims 10, 23, 36, 49, Eylon discloses the process, apparatus, method of claims 9, 22, 35, 48, wherein the sequence of file blocks is used to pre-cache frequently used blocks on the client before the application program is first used by a user. (see

Eylon col. 4, lines 42-50: cache utilized)

Regarding Claims 11, 24, 37, 50, Eylon discloses the process, apparatus, method of claims 9, 22, 35, 48, wherein the sequence of file blocks is used to optimize large directories of files on the client for faster file accesses. (see Eylon col. 3, lines 52-56: pre-load data to optimize file access)

Regarding Claims 12, 25, 38, 51, Eylon discloses the process, apparatus, method of claims 9, 22, 35, 48, wherein the sequence of file blocks is tied to specific user input and wherein the client pre-fetches file blocks based on user input to the application program. (see Eylon col. 5, line 65 - col. 6, line 3: pre-loads file blocks)

Regarding Claims 13, 26, 39, 52, Eylon discloses the process, apparatus, method of claims 1, 14, 27, 40, wherein the installation monitoring means records a state of the local computer system before the installation process begins to give a more accurate picture of any modifications that are observed by the installation monitoring means. (see Eylon col. 7, lines 52-55: database for application configuration data, installation file information stored such that setup can be duplicated on multiple machines)

3. **Claims 7, 20, 33, 46** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Eylon-Kumar-Schmeidler** and further in view of **Cheng et al.** (US Patent No. 6,457,076).

Regarding Claims 7, 20, 33, 46, Eylon discloses a user interface for monitor and management application installation. (see Eylon col. 8, lines 49-53: application manager, monitor and management of installation process) In addition, Cheng discloses the process, apparatus, method of claims 1, 14, 27, 40, further comprising the step of: providing a user interface that allows an operator to examine all changes made to the local computer system during the installation process and to edit the modification information. (see Cheng col. 9, lines 32-42: where GUI to examine installation data)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Eylon to enable a user interface for the examination of installation modifications as taught by Cheng. One of ordinary skill in the art would be motivated to employ Cheng in order to efficiently enable an automatic update and usage of diverse software products for multiple clients within a network environment. (see Cheng col. 1, lines 11-15: “*... systems and methods for computer-based customer support ... systems, methods, and to products for automatically updating software products from diverse software vendors on a plurality of end-user, client computer systems ...*”)

(10) Response to Argument

A. Claims 1-6, 8-19, 21-32, 34-45, and 47-52 are unpatentable over U.S. Patent No. 6,574,618 (Eylon) in view of U.S. Patent No. 6,343,287 (Kumar) and further in view of U.S. Patent No. 6,374,402 (Schmeidler) under 35 U.S.C. §103(a).

A.1 Applicant argues that *the Eylon referenced is not eligible prior art.* (see *Appeal Remarks Page 6, Line 20 - Page 7, Line 22*)

As to Point A.1:

The Eylon reference is eligible prior art for Applicant's Invention. The Eylon reference identified as patent number 6,574, 618 was originally disclosed within a provisional application identified as 60/235.535 dated September 26, 2000. The Eylon reference is eligible prior art based on the fact that, “*... the invention was known in this country ..., before the invention thereof by the applicant for patent ...*”, since a provisional application was filed with the US Patent Office on September 26, 2000.

The file date for Applicant's Invention was November 6, 2000. The file date for the Eylon referenced was September 26, 2000 based on its provisional application. The file date for the Eylon reference is before the file date for Applicant's Invention, therefore the Eylon reference is eligible prior art.

A.2 Applicant argues that *the Kumar reference is not eligible prior art.* (see *Appeal Remarks Page 7, Line 24 - Page 11, Line 27*)

As to Point A.2:

Applicant's invention operates within the field of endeavor for the delivery of software. Streamed delivery is merely one format for the delivery of software over a communications network.

All of the selected prior art references, Eylon (6,574,618), Kumar (6,343,287), Schmeidler (6,374,402) and Cheng (6,457,076), are in the same field of endeavor as Applicant's Invention, which is the delivery and installation of software over network communications.

A.3 Applicant argues that the referenced prior art does not disclose, *the conversion of a conventionally coded application, and parameterizing the registry modifications.* (see *Appeal Remarks Page 12, Line 2*)

As to Point A.3:

The Kumar prior art is not utilized to convert a conventionally coded application or streamed software delivery as stated. The Eylon prior art is utilized to convert a conventionally coded application and the capability to process and delivery streaming software.

Streaming is a delivery mechanism for the transfer of a file (i.e. an application program) between two network-connected systems and is not a new or novel technology, but merely a file delivery mechanism. An application program exists as a file within the server system before its transfer to a client. The principal difference

between streaming transfer method and “normal” file transfer method is the capability to utilize the transferred information before the file transfer process is completed.

The installation of an application within a system places the application’s software (i.e. source, instructions) into system files, and system information is updated to indicate application existence.

The execution of an application is the placement of instructions into system memory and a start location is executed with a program flow consisting of an execution of a sequence of instructions (i.e. loads, stores, jumps). These are two separate operational activities for a computer system.

The Eylon prior art discloses the execution of application program(s). (see Eylon col. 3, lines 42-47) No mention is disclosed that the applications are not conventionally coded applications. No mention is disclosed that there is any recompilation or reconfiguration of application(s) to prepare them for streamed delivery. Remarks dated February 28, 2006 state that the application is converted “... into a data set suitable for streamed delivery ...” This statement discloses a capability to prepare an application for delivery in a streamed format. The Eylon prior art discloses the capability to format an application for streamed delivery, which is equivalent to applicant’s invention. (see Eylon col. 5, lines 53-64) The Eylon prior art does not disclose or mentions a stream-enabled application stored within any system. The Eylon prior art prepares the application for stream delivery by the generation of streamlets.

Registry configuration parameters must be setup and installed (i.e. some form of an installation) on a client system in order to execute even a streamed application. The

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Eylon prior art discloses the execution of a streamed application on a client system. In addition, the Eylon prior art discloses the capability to monitor application installation and processing. (see Eylon col. 8, lines 49-53)

The Eylon prior art discloses the streamed delivery of an application between network-connected systems. (see Eylon col. 5, lines 45-50) The Eylon and Schmeidler prior art combination discloses the concept of registry information containing configuration data for an application. (see Schmeidler col. 4, lines 43-46; col. 4, lines 54-59; col. 11, lines 44-46) The Eylon, Schmeidler, and Kumar prior art combination discloses the capability to parameterized system registry configuration information including modifications and the streaming of parameterized configuration data between systems. (see Kumar col. 1, lines 57-61; col. 1, lines 17-20: application configuration information; col. 16, lines 22-28; col. 16, lines 31-34; col. 21, lines 36-38: parameterized configuration data)

By definition, “to spoof” simulates a communications protocol (i.e. update registry information concerning application installation) by a program that is interjected into a normal sequence of processes (i.e. to client, spoof appears as a normal installation of application and is transparent to client) for the purpose of adding some useful function.
(1. http://searchsecurity.techtarget.com/sDefinition/0,,sid14_gci213039,00.html)

The Eylon prior art discloses the capability to process an application file transfer utilizing the well known in the art streaming file delivery mechanism. (see Eylon col. 3, lines 52-56; col. 4, lines 51-56: steamed application delivery) In addition, the Eylon and Schmeidler prior art combination discloses the capability to redirect (i.e. spoof, deceive)

registry information during the installation processing. (see Schmeidler col. 4, lines 43-46; col. 4, lines 54-59; col. 11, lines 44-46: manipulation of registry information (i.e. redirect, spoof) during installation process)

Applicant's invention has two principal features: a) streamed transfer and execution of an application file, and b) capability for monitoring and storage of installation information. The referenced prior art discloses these claim limitations. (see Eylon col. 4, lines 51-56; col. 8, lines 49-53; see Schmeidler col. 2, lines 15-18; col. 19, lines 59-61; col. 17, lines 45-46; see Cheng col. 3, lines 11-13; col. 8, lines 62-66; col. 10, lines 26-32: application file delivery, monitoring and storage (i.e. database) capability)

A.4 Applicant argues *the after final remarks dated October 23, 2006. (see Appeal Remarks Page 18, Line 12 - Page 24, Line 17)*

As to Point A.4:

The Applicant disputes the after final remarks dated October 23, 2006. The issues raised in these arguments have been addressed before and do not introduce any new arguments. These issues have been addressed before and successfully answered. The after final remarks are included again to reiterate the answers to these arguments.

1.1 Applicant's Invention discloses the processing of a conventionally coded which is defined as an application without the requirement for recompiling or recoding. (see Specification Paragraph [0072]) The Eylon (6,574,618) prior art discloses the processing of a conventionally coded application without the requirement for

recompilation or recoding of the application. Eylon discloses converting the application into a mode suitable for delivery via a streaming delivery mechanism without the requirement for recompilation or recoding of the application. (see Eylon col. 3, lines 45-50: server; col. 3, lines 52-56; col. 4, lines 51-56: streamed application ; col. 8, lines 49-53: monitor and management, streamed application installation on local system)

By definition, conventionally is defined as “ ... Conforming to established practice or accepted standards; traditional: ... ”, or a standard method for the coding of a application. (<http://www.answers.com/conventionally&r=67>)

1.2 The Eylon prior art discloses that the “ *... application does not need to be installed on the Client PC ...* ”. The statement merely states that the application does not need to be installed. The Eylon prior art does not discourage installation of the application, therefore it does not teach away from application installation on a client system.

1.3 The Eylon prior art discloses an application transferred from a server to a client, and the application initiates execution before the entire application has been transferred. (see Eylon col. 3, lines 52-56: initiate execution after fraction of application loaded(i.e. before entire application downloaded))

1.4 Applicant has argued that the referenced prior art does not disclose “... *redirecting registry information thereby creating a registry spoof capability ...* “. The referenced prior art does disclose this limitation.

Eylon discloses the capability to process an application transfer utilizing a streamed delivery mechanism. (see Eylon col. 3, lines 52-56; col. 4, lines 51-56) Eylon and Schmeidler (6,374,402) combination discloses the capability to redirect (i.e. spoof, deceive) registry information during the installation processing. By definition, “to spoof” *simulates a communications protocol (i.e. update registry information concerning application installation) by a program that is interjected into a normal sequence of processes (i.e. to client, spoof appears as a normal installation of application and is transparent to client) for the purpose of adding some useful function.* (see Schmeidler col. 4, lines 43-46; col. 4, lines 54-59; col. 11, lines 44-46: manipulation of registry information (i.e. redirect, spoof) during installation process)

1.5 Applicant has argued that the referenced prior art does not disclose “... *parameterizing the system registry modifications ...* “.

The referenced prior art does disclose this limitation.

Eylon discloses the streamed delivery of an application (i.e. conventionally coded application) between network-connected systems. (see Eylon col. 5, lines 45-50) Eylon and Schmeidler combination discloses the concept of registry information containing configuration data for an application. (see Schmeidler col. 4, lines 43-46; col. 4, lines 54-59; col. 11, lines 44-46) Eylon, Schmeidler, and Kumar

(6,343,287) combination discloses the capability to parameterized system registry configuration information including modifications and the streaming of parameterized configuration data between system. (see Kumar col. 1, lines 57-61; col. 1, lines 17-20: application configuration information; col. 16, lines 22-28; col. 16, lines 31-34; col. 21, lines 36-38: parameterized configuration data)

1.6 Applicant has argued that the referenced prior art does not disclose, “*... providing a user interface that allows an operator to examine all changes made to the local computer system ...*“.

Eylon discloses a user interface for monitor and management application installation. (see Eylon col. 8, lines 49-53: application manager, monitor and management of installation process) Eylon and Cheng combination discloses a user interface that allows an operator to examine all changes made to the local computer system during the installation process and to edit the modification information. (see Cheng col. 9, lines 32-42: where GUI to examine installation data)

The referenced prior art does disclose all of these limitations.

B. Whether Claims 7, 20, 33, and 46 are unpatentable over Eylon-Kumar-Schmeidler and further in view of U.S. Patent No. 6,457,076 (Cheng) under 35 U.S.C. §103(a).

B.1 Applicant argues that *the referenced prior art does not disclose a user interface to monitor the installation.* (see *Appeal Remarks Page 24, Line 18 - Page 24, Line 27*)

As to Point B.1:

The Eylon prior art discloses the streamed delivery of an application over network communications. And, the Eylon prior art discloses a user interface for monitoring and managing software application installations. (see Eylon col. 8, lines 49-53: application manager, monitor and manage installation process) The Eylon and Cheng prior art combination discloses a user interface that allows an operator to examine all changes made to the local computer system during the installation process and to edit the modification information. (see Cheng col. 9, lines 32-42: where GUI to examine installation data)

The Cheng prior art is an equivalent art concerning an application program file transfer plus the capability to monitor and enable storage of the application file installation information. The only difference is the file delivery mechanism. Dependent claims 7, 20, 33, 46 do not mention streaming file delivery capability, but, only mentions the capability for a user interface which is utilized for the manipulation of installation information. The Eylon and Cheng prior art combination discloses a user interface capability for installation procedures, and the capability to edit the modification information. (see Cheng col. 9, lines 32-42: user interface)

Conclusion

The referenced prior art discloses Applicant's Invention essentially as claimed. The referenced prior art discloses a capability to stream an application between two systems utilizing networking based communications. The referenced prior art discloses the capability to prepare the application prior to streaming the application. The referenced prior art discloses the capability to initiate execution of the application before the entire application has been loaded on the receiving system. This pre-execution capability is standard for a streaming application. All referenced prior art is in the field of software installation and delivery of over network communications.

In addition, the referenced prior art discloses the expanded capability to monitor the installation of the delivered software and the additionally capability to view the installation information using a user interface. The streamed delivery of software is not a novel idea. All of the limitations of this application were well known in the art. All of these claim limitations addressed by the Applicant have been successfully disclosed. The referenced prior art discloses all claim limitations.

The rejection to each independent and dependent claim includes a citation from the referenced prior art that discloses the basis for the rejection. Each obviousness combination clearly indicates the claim limitation the combined reference prior art teaches. In addition, a cited passage from the referenced prior art clearly indicates the motivation for the obviousness combination. **Each obviousness combination's disclosure is equivalent to the Applicant's claimed invention.**

In conclusion, the Examiner has considered the applicant's remarks concerning the streamed delivery of an application and execution initiation before application transfer. The remarks have been considered and analyzed, but the remarks were not persuasive.

After an additional analysis of the applicant's invention, remarks, and a search of the available prior art, it was determined that the current set of prior art consisting of Eylon (6,574,618), Kumar (6,343,287), and Schmeidler (6,374,402) discloses the applicant's invention including disclosures in Appeal Remarks dated November 20, 2006. All claims in Applicant's invention have been rejected as anticipatory or obvious based on the referenced prior art.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

K H S
Kyung H Shin
Patent Examiner
Art Unit 2143

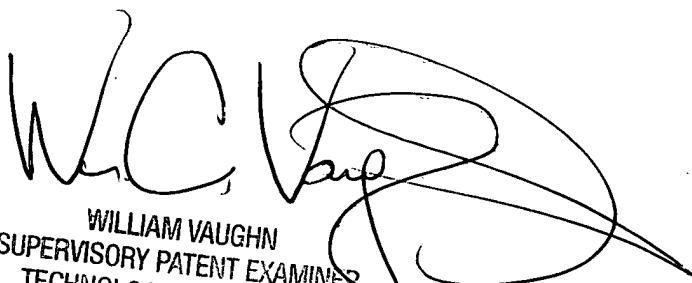
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February 18, 2007

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